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| 09/574,909 | 05/19/2000 | Michael J. Beaudoin | 004156.P001 | 1410 |

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EXAMINER

GART, MATTHEW S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3625

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/574,909

Applicant(s)

BEAUDOIN ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 0204.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9, 13-15, 17, 18, 27, 37-46, 50, 55, 62-67 and 70 is/are pending in the application.
- 4a) Of the above claim(s) 71-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 13-15, 17, 18, 27, 37-46, 50, 55, 62-67 and 70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>November 14, 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claims 71-78 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Newly submitted claims 71-78 and the currently pending claims (Claims 1-5, 7-9, 13-15, 17-18, 27, 37-46, 50, 55, 62-67 and 70) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, newly submitted claims 71-78 has separate utility such as an automated telephone system to notify at least one of the one or more home service providers of the consumer's service needs and an interactive voice response database from which the pre-screened home service providers can check the status of or respond to service requests. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for the newly submitted claims is not required for the currently pending claims, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 71-78 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims 10-11, 22, 28, 30-32, and 68-69 have been canceled via the applicant's response filed 5/19/2004. Claims 6, 12, 16, 19-21, 23-26, 29, 33-36, 47-49, 51-54, 56-

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61 and 68-69 have been previously canceled. Claims 1-5, 7-9, 13-15, 17-18, 27, 37-46, 50, 55, 62-67 and 70 are pending in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 7-9, 13-15, 17-18, 27, 37-46, 50, 55, 62-67 and 70 are rejected under 35 U.S.C. 102(a) as being anticipated by Improvenet.com.

Sufficient evidence of known use of the instant invention was demonstrated via the following periodicals:

"Improvenet matches homeowners, contractor," Bill Rumbler, Chicago Sun – Times, May 2, 1999, page 3. (PTO-892, Ref U)

"Way to find contractor just improved greatly," Joseph Szadkowski, Washington Times, Washington, March 11, 1999, page E3. (PTO-892, Ref V)

"Homeowners find contractors on the Internet," Beth Belton, USA Today, Arlington, April 13, 1999, page 02B. (PTO-892, Ref W)

www://web.archive.org/web//www.Improvenet.com [Internet archiving program], retrieved on November 3, 2002 <Internet>, Dec. 21 1996 – November 26, 2002. (PTO-892, Ref X)*

Referring to claim 1. Improvenet.com discloses a method comprising:

- Establishing a database of pre-screened home service providers (Ref U: paragraph 5, paragraph 6, and paragraph 7);
- One or more processors extracting a sufficiently descriptive and detailed description of a consumer's service needs so as to allow bids to be submitted by one or more of the pre-screen home service providers using a question and answer interview appropriate for the consumer's desired home service task, wherein the question and answer interview allows the consumer to narrow alternatives that describe the consumer's service needs while selections by the consumer lead them to a new set of alternatives and choices (Ref U: paragraph 8);
- The one or more processors packaging and presenting the consumer's service needs to one or more home service providers in the database of pre-screened home service providers that exhibit a set of predetermined qualifications relating to the consumer's service needs (Ref V: paragraph 5, paragraph 6, paragraph 7, and paragraph 8); and
- The one or more processors presenting one or more affirmative home service provider responses to the consumer (Ref V: paragraph 5, paragraph 6, paragraph 7, and paragraph 8)

Referring to claim 2. Improvenet.com further comprises receiving confirmation of completed service transactions by initiating automatic follow-up communication with one or more of the consumer and the home service providers (Ref U: paragraph 11).

Referring to claim 3. Improvenet.com further comprises making inferences regarding desirability of a particular home service task to home service providers based upon past service requests to which the home service providers have responded or not responded (Ref U: paragraph 11); and prioritizing referral of home service providers based upon recent service opportunities provided to or accepted by the home service providers (Ref X: Page 2).

Referring to claim 4. Improvenet.com further disclose a method wherein the home service providers are pre-screened based on information they provide, including one or more of service type, geographic region of operation, service response and fulfillment time, preferred communication mechanism and types of transaction services for which they would like to be considered (Ref U: paragraph 11).

Referring to claim 5. Improvenet.com further comprises:

- Compiling ratings and reviews regarding the home service providers that have completed one or more service transactions on behalf of one or more matched consumers and have been rated and reviewed by the one or more matched consumers (Ref X: Page 2 and Ref U: paragraph 11);
- Assigning a rating score to the home service providers based on the ratings and reviews (Ref X: Page 2 and Ref U: paragraph 11);

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- Assigning a quality seal to the home service providers base don the ratings and reviews (Ref X: Page 2 and Ref U: paragraph 11); and
- Presenting the quality seal associated with a particular home service provider when information regarding the particular home service provider is requested by a consumer (Ref X: Page 2 and Ref U: paragraph 11).

Referring to claim 7. Improvenet.com further discloses a method wherein the consumer's service needs may be presented to the one or more home service providers, by way of a set of heterogeneous communication devices depending upon preferences supplied by the one or more home service providers (Ref X: Page 2).

Referring to claim 8. Improvenet.com further discloses a method wherein the set of heterogeneous communication devices includes one or more of facsimile pager, mobile phone, home phone, office phone, wireless internet device, interactive voice response unit, cell text messaging and email (Ref X: Full Text).

Referring to claim 9. Improvenet.com further discloses a method wherein the one or more home service providers may choose to submit a quote for the consumer's service needs, indicating a desire to be presented to the consumer, or reject the home service task (Ref U: paragraph 8, paragraph 9, and paragraph 10).

Referring to claim 13. Improvenet.com further comprises:

- Capturing basic information regarding the home service providers (Ref U: paragraph 8); and

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- Collecting preference information from the home service providers to facilitate matching among consumers and the home service providers (Ref U: paragraph 8).

Referring to claim 14. Improvenet.com further discloses a method wherein the basic information includes one or more of business name, address, number of years in operation, number of employees, one or more service interests, and credit information (Ref U: paragraph 4, paragraph 5, and paragraph 6).

Referring to claim 15. Improvenet.com further discloses a method wherein the preference information includes one or more of one or more service types, geographic region of operation, service expenditure size range, service response and fulfillment time, and one or more preferred communication mechanisms (Ref X: page 1 and page 2).

Referring to claim 17. Improvenet.com further discloses a method wherein the preference information further includes the type of consumer service requests that the home service providers are interested in receiving (Ref X: page 1 and page 2).

Referring to claim 18. Improvenet.com further discloses a method wherein the preferred communication mechanism comprises one or more of facsimile pager, mobile phone, home phone, office phone, wireless internet device, interactive voice response unit, cell text messaging and email (Ref X: Full Text).

Referring to claim 27. Improvenet.com further discloses a method comprising receiving feed back and rating and review information regarding the home service provider from the consumer (Ref U: paragraph 11).

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Referring to claims 37-45. Claims 37-45 contain limitations, which are precisely the disclosed and the intended use as claims stated previously, and are therefore rejected under the same rationale as set forth above.

Referring to claim 46. Claim 46 contain limitations, which are precisely the disclosed and the intended use as claims stated previously, and are therefore rejected under the same rationale as set forth above.

Referring to claim 50. Claim 50 contain limitations, which are precisely the disclosed and the intended use as claims stated previously, and are therefore rejected under the same rationale as set forth above.

Referring to claim 55. Claim 55 contain limitations, which are precisely the disclosed and the intended use as claims stated previously, and are therefore rejected under the same rationale as set forth above.

Referring to claims 62-70. Claims 62-70 contain limitations, which are precisely the disclosed and the intended use as claims stated previously, and are therefore rejected under the same rationale as set forth above.

Response to Arguments

Applicant's arguments filed 5/19/2004 have been fully considered but they are not persuasive.

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The applicant argues, Improvenet.com does not teach or reasonably suggest including sufficiently detailed information about a consumer's need so as to allow bids to be submitted by service providers.

The Examiner notes, Improvenet.com discloses a system wherein Improvenet.com submits a job description to local contractors. This job description would need to contain "sufficiently detailed information" in order for those contractors who are interested in the project to put together a bid. Bids are typically based on a project's specification and detailed proposal.

The applicant argues, Improvenet.com cannot fairly be interpreted to teach or suggest using a question and answer interview appropriate for the consumer's desired home service task.

The Examiner notes, Improvenet.com discloses a system that after a user is logged in with Improve.net the user is asked about the project. The user is then asked about estimated cost and a start date (Ref U: paragraph 8). This qualifies as a question and answer interview. The USPTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.

The applicant argues, "...the feature of the question and answer interview guiding the consumer to a new set of alternatives and choices by allowing the consumer

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to narrow alternatives that describe the consumer's service needs is clearly not contemplated by Improvenet.com."

The Examiner notes, Improvenet.com discloses guiding the consumer to a new set of alternatives and choices. Page 2 of Ref X discloses, "Use our free service to receive a list of the most reliable local pros matched to your requirements! Customer surveys show our service saves you money on overall project costs and increases job satisfaction."

The applicant argues that Improvenet.com does not disclose presenting the consumer's service needs to pre-screened home service providers that exhibit a set of predetermined qualifications relating to the consumer's service needs.

The Examiner notes, Improvenet.com discloses presenting the consumer's service needs to pre-screened home service providers that exhibit a set of predetermined qualifications relating to the consumer's service needs. Improvenet.com discloses a method wherein Improvenet.com promises to find a consumer a good competent contractor via the Internet (Ref U: paragraph 3). Improvenet.com puts each contractor through a legal screening process; this process would screen out those contractors who have had consumers sue them for consumer service related malpractice. A legal screening process would insure capable and ethical contractors.

The applicant argues that Improvenet.com lacks teaching or suggestion with respect to the recited functions of "making inferences" and "prioritizing." The applicant further notes, claim 3 requires "making inference regarding desirability of a particular

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home service task to home service providers based upon past service requests to which the home service providers have responded or not responded.”

The applicant further notes, “...the paragraph cited by the Examiner, i.e. paragraph 11, relates to home owners being queried regarding the contractor’s performance during and after the project.”

The Examiner notes, Improvenet discloses a method wherein homeowners are queried as to the contractor’s performance, this query results in a consumer making inferences regarding desirability of a particular home service task to home service providers based upon past service requests to which the home service providers have responded or not responded; and prioritizing referral of home service providers based upon recent service opportunities provided to or accepted by the home service providers. Claim 3 does not explicitly disclose when the inferences take place. Claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their broadest reasonable interpretation’.” 710 F.2d at 802, 218 USPQ at 292.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

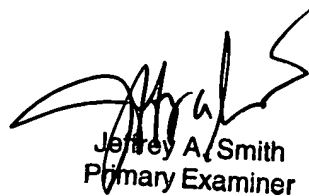
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

July 14, 2004



Jeffrey A. Smith
Primary Examiner